



REMARKS

The claims were rejected under Section 112, second paragraph, citing M.P.E.P. § 2172.01. That section provides two different grounds for objection, one being based on the first paragraph of Section 112 and the second one, set forth in the second paragraph of the M.P.E.P. section, based on Section 112, second paragraph. The office action is clear that it is based on the second paragraph of the M.P.E.P. section. That section states as follows:

In addition, a claim which fails to interrelate essential elements of the invention as defined by the applicant(s) in the specification may be rejected under 35 U.S.C. § 112, second paragraph, for failure to point out and distinctly claim the invention.

As can be seen from the underlining added to the M.P.E.P. section in the quote above, the basis for an essential matter rejection must be that the applicant has said that the material that is allegedly omitted was essential. Here, the office action is quite clear that it is nothing that the applicant said which is the basis of the rejection. Nothing in the application is believed to indicate that any of this material is essential. Instead, the assertion of items being essential is based on the Examiner's reasoning, not anything the applicant has already admitted. This being so, there is no basis for such a rejection and reconsideration is requested.

In response to the request for information, it should be noted that this application was prepared more than five years ago. While nothing that the undersigned recalls or can find from the file indicates that anything was used to prepare the application, given the passage of so much time, it would be impossible to say with certainty whether something was relied on over five years ago. Moreover, the undersigned knows of no prior art that is pertinent to the claimed invention.



Respectfully submitted,



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